

Amendments to the Drawings:

Figure 1 is corrected to show reference character “22”.

Replacement Page:

Figure 1.

REMARKS

Applicants have carefully reviewed and considered the Examiner's Office Action dated July 20, 2005, in which claims 4-5, 8, 10, 11 and 19 were indicated as containing allowable subject matter. Reconsideration is respectfully requested in view of the following comments.

By this Amendment, claims 1 and 17 are amended to recite that the container is made of a plastic material as described in paragraph [00027] of the originally-filed specification, a replacement Abstract of the Disclosure is submitted, and a Replacement Drawing Sheet of Figure 1 is presented. Accordingly, claims 1-23 are pending in the instant application.

Claims 1-3, 12-14, 16-18 and 20-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,044,997 to Ogg in view of International Publication No. WO 02/057146 to Bourque et al. (hereinafter referred to as "Bourque") for the reasons set forth in paragraph 2 of the Action. Claims 6, 7, 9, and 15 were rejected under 35 U.S.C. § 103(a) over the over combination and further in view of U.S. Patent No. 5,141,121 to Brown et al. (hereinafter referred to as "Brown") as explained in paragraph 3 of the Action. These rejections are respectfully traversed.

As explained in the Background of the Invention, the present invention is directed to a top portion or dome of a plastic container, which increases the ability of a customer to grip the plastic container by providing multiple gripping options. The primary reference to Ogg is discussed in paragraph [0002] of the originally-filed specification. The blow-molded plastic container discussed in Ogg is assigned to the Assignee of the present application and was described as "dismiss[ing] a stepped dome] because a stepped dome would not facilitate the pouring of contents from the container." See column 1, lines 19-24 of Ogg. Consequently, a need existed for a plastic container that provides the ready gripability and pourability afforded by grip

panel containers while providing large label placement areas and having sufficient strength throughout to provide rigidity and minimize the flex of the plastic container panels under vacuum, as described in paragraph [0004], lines 7-11 of the originally-filed application. Applicants' claimed invention achieves the above-mentioned needs for a plastic container.

The Action does not address the recited features of the claims that Ogg discloses. Instead, the Action baldly concludes that

To have formed the dome portion with a middle rib portion extending to the grip panels so that the bottle provides multiple grip positions for different size hands would have been obvious in view of such teaching by Bourque et al. (Paragraph 4 of the Action)

Thus, it is the Action's position that Bourque suggests modifying Ogg, even in view of the statement in Ogg's patent that teaches against such a combination. Ogg discloses a non-circular transverse cross-section for dome 14a, an intermediate section 14b and a lower section 14c. Intermediate section 14b is substantially annular, while dome 14a and lower section 14c are non-circular in cross-section. This is the opposite of the claimed structure for the dome according to the invention. That is, Ogg discloses a pre-ovalized dome with grip surfaces that undergo controlled deformation for accommodating a portion of the volumetric shrinkage due to hot filling, capping and cooling (See Abstract of Ogg).

It is noted that Bourque teaches a rectangular-shaped top-portion with a shoulder 60, a grip portion 65 inwardly recessed from shoulder 60 and a waist 75. The grip portion (logo area) 65 of Bourque may be of different shapes, but is disclosed as being an auxiliary vacuum panel to accommodate internal forces. That is, Bourque does not teach or suggest the recited substantially annular upper portion and the third horizontal rib that is substantially annular. Consequently, even if combined with Ogg, the claimed invention would not result because neither Ogg or Bourque disclose the recited structure of independent claims 1 and 17.

Moreover, there is no motivation for one of ordinary skill in the art to modify the pre-formed ovalized dome taught by Ogg with the rectangular-shaped top portion disclosed by Bourque because 1) Ogg teaches against a stepped dome in favor of an ovalized dome; 2) there is no motivation to destroy the pre-ovalized dome taught by Ogg and replace the same with a different structure that does not have the ability to accommodate volumetric shrinkage due to hot filling; and 3) there is no likelihood of success of combining teachings of a cylindrical blow molded container with those of a rectangular blow molded container as different constraints are necessary to adapt teachings of a rectangular blow molded container to a cylindrical container and one of ordinary skill in the art would not know how to apply those different constraints. Accordingly, claims 1-3, 12-14, 16-18 and 20-23 are not rendered obvious by Ogg in view of Bourque and withdrawal of that rejection is requested.

Brown is directed to a hot fill plastic container with invertible vacuum collapse surfaces in the hand grips. Brown teaches hand grips in a sidewall portion 12 of a container and a smooth, dome shaped portion 18. Thus, Brown teaches against providing grip panels in the dome portion of the plastic container. Consequently, Brown cannot cure the defects of Bourque.

The Action applies Brown for its teachings of vertical ribs in the grip panels. It is respectfully submitted that one of ordinary skill in the art would not have modified the logo auxiliary vacuum panel of Bourque with vertical ribs because the vertical ribs would destroy the logo formed in the auxiliary vacuum panel. Further, the recited vertical rib extends in a curve from one rib to another rib as set forth in claims 6-7. Brown discloses that the vertical projections are hand grips 28. There is no curve disclose; nor is there disclosure that the hand grips of Brown add sufficient structure to improve top load performance and gripability, as recited in claim 15. Accordingly, claims 6-7, 9 and 15 are not rendered unpatentable over any combination of Ogg, Bourque and Brown and withdrawal of that rejection is respectfully requested.

In view of the foregoing comments distinguishing the claimed invention from the prior art of record, it is believed that claims 1-23 are allowable over the prior art of record and Applicants request withdrawal of the above rejections. Accordingly, it is respectfully requested that a Notice of Allowance be issued indicating that claims 1-23 are allowed over the prior art of record.

Should the Examiner believe that a conference would advance the prosecution of this application, the Examiner is encouraged to telephone the undersigned counsel to arrange such a conference.

Respectfully submitted,



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